

In the Matter of the Accusation Against:)
)
ALFREDO ALEXANDER HIBBERT, PA) **Case No. 1E-2013-231102**
)
Physician Assistant License No. PA 14163)
)
Respondent)
)

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

IT IS SO ORDERED February 10, 2014.

By: Robert E. Sachs
Robert E. Sachs, P.A., President

1 KAMALA D. HARRIS
Attorney General of California
2 JOSE R. GUERRERO
Supervising Deputy Attorney General
3 JANE ZACK SIMON
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4 State Bar No. 116564
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Attorneys for Complainant

8 **BEFORE THE**
9 **PHYSICIAN ASSISTANT BOARD**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 1E-2013-231102

14 **ALFREDO ALEXANDER HIBBERT, PA**
6420 Whispering Sands Drive
Las Vegas, NV 89131

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 **Physician Assistant License No. PA-14163**

18 Respondent.

19 In the interest of a prompt and speedy settlement of this matter, consistent with the public
20 interest and the responsibility of the Physician Assistant Board, Medical Board of California of
21 the Department of Consumer Affairs, the parties hereby agree to the following Stipulated
22 Settlement and Disciplinary Order which will be submitted to the Physician Assistant Board for
23 approval and adoption as the final disposition of the Accusation.

24 **PARTIES**

25 1. Glenn L. Mitchell, Jr. (Complainant) is the Executive Officer of the Physician
26 Assistant Board (Board.) He brought this action solely in his official capacity and is represented
27 in this matter by Kamala D. Harris, Attorney General of the State of California, by Jane Zack
28 Simon, Deputy Attorney General. Respondent Alfredo Alexander Hibbert, P.A. is represented by

1 Susan M. Pitz of Nutile Pitz & Associates, Ridgeview Professional Complex, 1070 W. Horizon
2 ridge Suite 210, Henderson, NV 89012.

3 2. On August 12, 1997, the Physician Assistant Board issued Physician Assistant
4 License No. PA-14163 to Alfredo Alexander Hibbert, PA (Respondent.) The license is renewed
5 and current.

6 JURISDICTION

7 3. Accusation No. 1E-2013-231102 (Accusation) was filed before the Physician
8 Assistant Board and is currently pending against Respondent. The Accusation and all other
9 statutorily required documents were properly served on Respondent, who filed his Notice of
10 Defense contesting the Accusation. A copy of the Accusation is attached as Exhibit A.

11 ADVISEMENT AND WAIVERS

12 4. Respondent is fully aware of his legal rights in this matter, including the right to a
13 hearing on the charges and allegations in the Accusation; the right to be represented by counsel at
14 his own expense; the right to confront and cross-examine the witnesses against him; the right to
15 present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel
16 the attendance of witnesses and the production of documents; the right to reconsideration and
17 court review of an adverse decision; and all other rights accorded by the California
18 Administrative Procedure Act and other applicable laws.

19 5. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
20 every right set forth above. Respondent agrees that based on the Settlement Agreement issued by
21 the Nevada Board of Medical Examiners as set forth in the Accusation, cause exists to discipline
22 his California physician assistant license pursuant to Business and Professions Code sections 141
23 and 2305. Respondent agrees to be bound by the Board's imposition of discipline as set forth in
24 the Disciplinary Order below.

25 6. Respondent agrees to be bound by the Physician Assistant Board's imposition of
26 discipline as set forth in the Disciplinary Order below.

27 7. The admissions made by Respondent herein are only for the purposes of this
28 proceeding, or any other proceedings in which the Physician Assistant Board or other

1 professional licensing agency is involved, and shall not be admissible in any other criminal or
2 civil proceeding.

3 CONTINGENCY

4 8. This Stipulated Settlement and Disciplinary Order (Stipulation) shall be subject to
5 approval by the Physician Assistant Board. Respondent understands and agrees that counsel for
6 Complainant and the staff of the Physician Assistant Board may communicate directly with the
7 Board regarding this Stipulation, without notice to or participation by Respondent or his counsel.
8 By signing the Stipulation, Respondent understands and agrees that he may not withdraw his
9 agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it.
10 If the Board fails to adopt this Stipulation as its Decision and Order, the Stipulated Settlement and
11 Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible
12 in any legal action between the parties, and the Board shall not be disqualified from further action
13 by having considered this matter.

14 9. The parties understand and agree that Portable Document Format (PDF) and facsimile
15 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
16 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

17 10. In consideration of the foregoing admissions and stipulations, the parties agree that
18 the Board may, without further notice or formal proceeding, issue and enter the following
19 Disciplinary Order:

20 DISCIPLINARY ORDER

21 IT IS HEREBY ORDERED that Physician Assistant License No. PA-14163 issued to
22 Respondent Alfredo Alexander Hibbert, P.A. is revoked. However, the revocation is stayed and
23 Respondent is placed on probation for five (5) years on the following terms and conditions.

24 1. ACTUAL SUSPENSION As part of probation, Respondent is suspended from the
25 practice of medicine as a physician assistant for sixty (60) days, beginning the effective date of
26 this Decision.

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1 2. CONTROLLED DRUGS RESTRICTION Respondent shall not administer, issue a
2 drug order, prescribe, hand to a patient or possess any controlled substances as defined by the
3 California Uniform Controlled Substances Act for the first year of his probationary period, and
4 until he has successfully completed the Prescribing Practices Course described in this
5 Disciplinary Order.

6 If he has not already done so, Respondent shall immediately surrender his current DEA
7 permit to the Drug Enforcement Administration for cancellation. Within 15 calendar days after
8 the effective date of this Decision, Respondent shall submit proof that he has surrendered his
9 DEA permit for cancellation.

10 3. CONTROLLED DRUGS - MAINTAIN RECORD At such time as Respondent's
11 controlled substances privileges are reinstated, he shall maintain a record of all controlled
12 substances prescribed, administered, transmitted orally or in writing on a patient's record or
13 handed to a patient by the Respondent during probation showing all the following: 1) the name
14 and address of the patient, 2) the date, 3) the character and quantity of controlled substances
15 involved, 4) the indications and diagnosis for which the controlled substance was furnished, and
16 5) the name of the supervising physician prescriber.

17 Respondent shall keep these records in a separate file or ledger, in chronological order, and
18 shall make them available for inspection and copying by the Physician Assistant Board or its
19 designee, upon request and without charge.

20 4. PRESCRIBING PRACTICES COURSE Within 60 calendar days of the effective
21 date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the
22 Prescribing Practices Course at the Physician Assessment and Clinical Education Program,
23 University of California, San Diego School of Medicine (Program), approved in advance by the
24 Board or its designee. Respondent shall provide the Program with any information and documents
25 that the Program may deem pertinent. Respondent shall participate in and successfully complete
26 the classroom component of the course not later than six (6) months after Respondent's initial
27 enrollment. Respondent shall successfully complete any other component of the course within
28 one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and

1 shall be in addition to the Continuing Medical Education (CME) requirements for renewal of
2 licensure. A prescribing practices course taken after the acts that gave rise to the charges in the
3 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
4 or its designee, be accepted towards the fulfillment of this condition if the course would have
5 been approved by the Board or its designee had the course been taken after the effective date of
6 this Decision. Respondent shall submit a certification of successful completion to the Board or its
7 designee not later than 15 calendar days after successfully completing the course, or not later than
8 15 calendar days after the effective date of the Decision, whichever is later.

9 5. ETHICS COURSE Within 60 days of the effective date of this Decision,
10 Respondent shall submit to the Board or its designee for its prior approval a course in ethics. The
11 course shall be limited to classroom, conference, or seminar settings, and must be successfully
12 completed within the first year of probation. Respondent shall pay the cost of the course.
13 Respondent shall submit a certification of successful completion to the Committee or its designee
14 within 15 days of completing the course.

15 6. ON-SITE SUPERVISION/APPROVAL OF SUPERVISING PHYSICIAN
16 Respondent shall have at all times on-site supervision by an approved supervising physician.
17 Within 30 days of the effective date of this Decision, Respondent shall submit to the Board or its
18 designee for prior approval the name and license number of the supervising physician and a
19 practice plan detailing the nature of supervision to be provided. Respondent shall not practice in
20 California until the supervising physician and practice plan are approved by the Board or its
21 designee. Respondent shall have the supervising physician submit quarterly reports to the Board
22 or its designee. If the supervising physician is no longer available to serve in that capacity,
23 Respondent shall, within 15 days, submit the name and license number of a new supervising
24 physician to the Board for approval.

25 7. NOTIFICATION OF EMPLOYER AND SUPERVISING PHYSICIAN
26 Respondent shall notify his current and any subsequent employer and supervising physician(s) of
27 his discipline and provide a copy of the Stipulated Settlement and Disciplinary Order to each
28 such employer and supervising physician(s) during his period of probation, at the onset of that

1 employment. Respondent shall ensure that each employer informs the Physician Assistant Board,
2 or its agent, in writing within thirty (30) days, verifying that the employer and supervising
3 physician(s) have been informed of this Stipulation and Order.

4 8. OBEY ALL LAWS Respondent shall obey all federal, state, and local laws, and
5 all rules governing the practice of medicine as a physician assistant in California, and remain in
6 full compliance with any court ordered criminal probation, payments, and other orders.

7 9. QUARTERLY REPORTS Respondent shall submit quarterly declarations under
8 penalty of perjury on forms provided by the Board or its designee, stating whether there has been
9 compliance with all the conditions of probation.

10 10. PROBATION PROGRAM COMPLIANCE Respondent
11 shall comply and cooperate with the Board's probation program. Respondent shall, at all times,
12 keep the Board and its probation unit informed of his addresses of business and residence which
13 shall both serve as addresses of record. Changes of such addresses shall be immediately
14 communicated in writing to the Board and the probation unit. Under no circumstances shall a post
15 office box serve as an address of record, except as allowed by California Code of Regulations
16 1399.523.

17 Respondent shall, at all times, maintain a current and renewed physician assistant license.

18 Respondent shall also immediately inform the Board and the probation unit, in writing, of
19 any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to
20 last, more than thirty (30) days.

21 11. INTERVIEW WITH MEDICAL CONSULTANT Respondent shall appear in
22 person for interviews with the Board's medical or expert physician assistant consultant upon
23 request at various intervals and with reasonable notice.

24 12. TOLLING FOR OUT-OF -STATE PRACTICE OR RESIDENCE The period of
25 probation shall not run during the time Respondent is residing or practicing outside the
26 jurisdiction of California. If, during probation, Respondent moves out of the jurisdiction of
27 California to reside or practice elsewhere, including federal facilities, Respondent is required to
28 immediately notify the Board in writing of the date of departure and the date of return, if any.

Respondent's license shall be automatically canceled if Respondent's period of temporary or permanent residence or practice outside California totals two years. Respondent's license shall not be canceled as long as he is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two year period shall begin on the date probation is completed or terminated in that state.

13. FAILURE TO PRACTICE AS A PHYSICIAN ASSISTANT- CALIFORNIA RESIDENT In the event Respondent resides in California and for any reason Respondent stops practicing as a physician assistant in California, Respondent shall notify the Board or its designee and the probation unit in writing within 30 calendar days prior to the dates of non-practice and return to practice. Any period of non-practice within California, as defined in this condition, will not apply to the reduction of the probationary term and does not relieve Respondent of the responsibility to comply with the terms and conditions of probation. Non-practice is defined as any period of time exceeding 30 calendar days in which Respondent is not practicing as a physician assistant. All time spent in a clinical training program that has been approved by the Board or its designee, shall be considered time spent in the practice of medicine. For purposes of this condition, non-practice due to a Board ordered suspension or in compliance with any other condition of probation, shall not be considered a period of non-practice. Respondent's license shall be automatically canceled if, for a total of two years, Respondent resides in California and fails to practice as a physician assistant.

14. INITIAL PROBATION INTERVIEW Respondent shall appear in person for an initial interview with a designee of the Physician Assistant Board within 90 days of the final decision. Respondent shall present himself to an initial interview at a time and place determined by the Board or its designee.

15. UNANNOUNCED CLINICAL SITE VISIT At least once per calendar year, or more frequently as determined by the Board or its designee, unannounced clinical site visits shall be made by the Board or its designee to ensure that Respondent is complying with all terms and conditions of probation.

1 16. COMPLETION OF PROBATION Respondent shall comply with all financial
2 obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the
3 completion of probation. Upon successful completion of probation, Respondent's license will be
4 fully restored.

5 17. VIOLATION OF PROBATION If Respondent violates probation in any respect,
6 the Board, after giving Respondent notice and the opportunity to be heard, may revoke probation
7 and carry out the disciplinary order that was stayed. If an accusation or petition to revoke
8 probation is filed against Respondent during probation, the Board shall have continuing
9 jurisdiction until the matter is final, and the period of probation shall be extended until the matter
10 is final.

11 18. COST RECOVERY Respondent is hereby ordered to reimburse the Physician
12 Assistant Board the amount of \$750.00 within 90 days from the effective date of this decision for
13 a portion of its investigative and prosecution costs. Failure to reimburse the Board's costs for its
14 investigation and prosecution shall constitute a violation of the probation order, unless the Board
15 agrees in writing to payment by an installment plan because of financial hardship. The filing of
16 bankruptcy by the Respondent shall not relieve the Respondent of his responsibility to reimburse
17 the Board for its costs.

18 19. PROBATION MONITORING COSTS Respondent shall pay the costs associated
19 with probation monitoring each and every year of probation, as designated by the Board, which
20 may be adjusted on an annual basis. The costs shall be made payable to "The Physician Assistant
21 Board" and delivered to the Board no later than January 31 of each calendar year.

22 20. VOLUNTARY LICENSE SURRENDER Following the effective date of this
23 Decision, if Respondent ceases practicing due to retirement, health reasons, or is otherwise unable
24 to satisfy the terms and conditions of probation, Respondent may request the voluntarily
25 surrender of Respondent's license to the Board. The Board reserves the right to evaluate the
26 Respondent's request and to exercise its discretion whether to grant the request, or to take any
27 other action deemed appropriate and reasonable under the circumstances. Upon formal
28 acceptance of the surrender, Respondent shall within 15 days deliver Respondent's wallet and

1 wall certificate to the Board or its designee and shall no longer practice as a physician assistant.
2 Respondent will no longer be subject to the terms and conditions of probation and the surrender
3 of Respondent's license shall be deemed disciplinary action. If Respondent re-applies for a
4 physician assistant license, the application shall be treated as a petition for reinstatement of a
5 revoked license.

6 ACCEPTANCE

7 I have carefully read the above Stipulated Settlement and Disciplinary Order. I understand
8 the effect this Stipulation will have on my Physician Assistant License. I enter into this
9 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
10 to be bound by the Decision and Order of the Physician Assistant Board, Medical Board of
11 California.


12
13 DATED: 1/8/14


14 ALFREDO ALEXANDER HIBBERT, PA
15 Respondent

16 APPROVAL

17 I have read and fully discussed with my client Alfredo Alexander Hibbert, P.A. the terms
18 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
19 Order. I approve its form and content.

20 DATED: 1/9/14


21 SUSAN M. PITZ
22 Nutile Pitz & Associates
23 Attorneys for Respondent
24
25
26
27
28

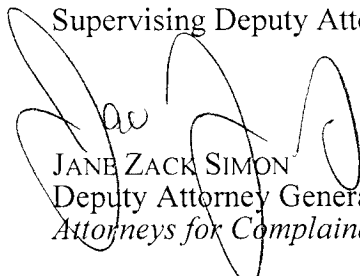
ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Physician Assistant Board, Medical Board of California of the Department of Consumer Affairs.

Dated: 11/14/14

Respectfully Submitted,

KAMALA D. HARRIS
Attorney General of California
JOSE R. GUERRERO
Supervising Deputy Attorney General


JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

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EXHIBIT A

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO August 7 20 13
BY Jan K. McElone ANALYST

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*Attorneys for Complainant
Physician Assistant Board*

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1E-2013-231102

ALFREDO ALEXANDER HIBBERT, P.A.
9120 Teal Lake Court
Las Vegas, NV 89129

A C C U S A T I O N

Physician Assistant License No. PA-14163

Respondent.

The Complainant alleges:

PARTIES

1. Glenn L. Mitchell, Jr. (Complainant) is the Executive Officer of the Physician Assistant Board of the Medical Board of California, Department of Consumer Affairs, State of California (Board) and brings this Accusation solely in his official capacity.

2. On August 12, 1997, Physician Assistant License No. PA-14163 was issued by the Board to Alfredo Alexander Hibbert (Respondent.) Said license is in delinquent status, having expired on December 31, 2009.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

A. Section 3504 of the Business and Professions Code provides for the existence of the Physician Assistant Board within the Medical Board of California.

B. Section 3527 of the Code provides, in pertinent part, that the Board may order the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license for unprofessional conduct which includes, but is not limited to a violation of this chapter (Chapter 7.7, §3500, *et seq.* of the Business and Professions Code), a violation of the Medical Practice Act (Business and Professions Code §2000 *et seq.*) or a violation of the regulations adopted by the Board or the Medical Board of California. If probation is imposed, the Board may order the licensee to pay the costs of probation monitoring.

C. Section 1399.521 of Title 16 of the California Code of Regulations provides, in pertinent part, that in addition to the grounds set forth in Section 3527, subd. (a), of the code, the Board may ... suspend, revoke, or place on probation a physician's assistant for the following causes:

(a) Any violation of the State Medical Practice Act which would constitute unprofessional conduct for a physician and surgeon.

D. Section 2305 of the Code provides, in part, that the revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license to practice medicine issued by that state, that would have been grounds for discipline in California under the Medical Practice Act, constitutes grounds for discipline for unprofessional conduct.

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1 E. Section 141 of the Code provides:

2 “(a) For any licensee holding a license issued by a board under the
3 jurisdiction of a department, a disciplinary action taken by another state, by any
4 agency of the federal government, or by another country for any act substantially
5 related to the practice regulated by the California license, may be ground for
6 disciplinary action by the respective state licensing board. A certified copy of the
7 record of the disciplinary action taken against the licensee by another state, an agency
8 of the federal government, or by another country shall be conclusive evidence of the
9 events related therein.

10 “(b) Nothing in this section shall preclude a board from applying a
11 specific statutory provision in the licensing act administered by the board that
12 provides for discipline based upon a disciplinary action taken against the licensee by
13 another state, an agency of the federal government, or another country.”

14 F. Section 125.3 of the Code provides, in pertinent part, that in any order
15 issued in resolution of a disciplinary proceeding the Board may request the administrative law
16 judge to direct a licensee found to have committed a violation/violations of the licensing act to
17 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

18 **FIRST CAUSE FOR DISCIPLINE**

19 (Discipline, Restriction, or Limitation Imposed by Another State)

20 4. March 11, 2013, the Nevada Board of Medical Examiners issued a Settlement
21 Agreement regarding Respondent's physician assistant license. The Settlement Agreement
22 resolved a pending disciplinary action alleging that Respondent falsified health care records;
23 administered, dispensed or possessed controlled substances other than in the course of legitimate
24 medical services or as authorized by law and the supervising physician; engaged in conduct that
25 was intended to deceive and/or violated a regulation adopted by the Nevada State Board of
26 Pharmacy; disobeyed provisions of the State Board of Pharmacy; and prescribed to a patient with
27 whom Respondent did not have a bona fide therapeutic relationship. Under the terms of the
28 Settlement Agreement, Respondent's Nevada license was suspended, stayed, and placed on
probation for a period of 36 months. Terms and conditions of probation include a 12 month
prohibition on dispensing controlled substances; a requirement that Respondent remain in
compliance with all state and federal laws pertaining to the practice of medicine and the
prescribing, administering or dispensing of dangerous drugs or controlled substances; Respondent
must obtain and maintain all appropriate registrations and licenses with the DEA and the Nevada

1 State Board of Pharmacy to prescribe, administer or dispense dangerous drugs or controlled
2 substances; Respondent received a public reprimand, and; a fine was imposed. A copy of the
3 Settlement Agreement issued by the Nevada Board of Medical Examiners is attached as Exhibit
4 A.

5 5. Respondent's conduct and the action of the Nevada Board of Medical Examiners
6 set forth in paragraph 4, above, constitute unprofessional conduct within the meaning of section
7 2305 and conduct subject to discipline within the meaning of section 141(a).

8 **PRAYER**

9 WHEREFORE, Complainant requests that a hearing be held on the matters herein
10 alleged, and that following the hearing, the Physician Assistant Board issue a decision:

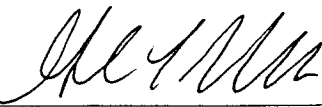
11 1. Revoking or suspending Physician Assistant License Number PA-14163 issued to
12 respondent Alfredo Alexander Hibbert, P.A.;

13 2. Ordering Respondent to pay the Board the actual and reasonable costs of the
14 investigation and enforcement of this case;

15 3. If probation is included in any order issued herein, to order Respondent to pay the
16 costs of probation, and;

17 4. Taking such other and further action as the Board deems necessary and proper.
18
19

20
21 DATED: August 7, 2013



22 GLENN L. MITCHELL, JR.
23 Executive Officer
Physician Assistant Board
State of California
Complainant

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27
28

EXHIBIT A

ORIGINAL

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and

Case No. 12-287-1

Complaint Against

FILED

ALFREDO A. HIBBERT, P.A.-C,

MAR 11 2013

Respondent.

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

SETTLEMENT AGREEMENT

THIS AGREEMENT is hereby entered into by and between the Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), composed at the time of filing the formal Complaint of Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member, in the above-captioned matter, by and through its counsel, Erin L. Albright, Esq., Board Deputy General Counsel and attorney for the IC, and Alfredo A. Hibbert, P.A.-C. (Respondent), by and through his counsel, Maria Nutile, Esq., as follows:

WHEREAS, on September 20, 2012, the Board's IC filed a formal Complaint in the above-captioned matter charging Respondent with engaging in conduct that is grounds for discipline pursuant to the Nevada Medical Practice Act (MPA), i.e., Chapter 630 of the Nevada Revised Statutes (NRS) and the Nevada Administrative Code (NAC), to wit: Count I: thirteen (13) counts of falsifying health care records, thirteen (13) violations of NAC 630.230(1)(a); Count II: thirteen (13) counts of administering, dispensing or possessing any controlled substance otherwise than in the course of legitimate medical services or as authorized by law and the supervising physician, thirteen (13) violations of NAC 630.380(1)(h); Count III: thirteen (13) counts of engaging in conduct that is intended to deceive and/or violates a regulation

1 adopted by the State Board of Pharmacy, thirteen (13) violations of NRS 630.306(2)(a) and (c);
2 Count IV: thirteen (13) counts of disobeying any provision of the State Board of Pharmacy or
3 NAC 630.010 et seq., thirteen (13) violations of NAC 630.380(1)(g); and Count V: thirteen (13)
4 counts of prescribing a drug to a patient with whom the prescribing practitioner does not have a
5 bona fide therapeutic relationship, thirteen (13) violations of NRS 630.306(2)(c) referencing NAC
6 639.945(1)(o) & (3); and

7 **WHEREAS**, Respondent received a copy of the formal Complaint, reviewed it,
8 understands it, and consulted with competent counsel, Maria Nutile, Esq., concerning the nature
9 and significance of the formal Complaint. Respondent is fully advised concerning his rights and
10 defenses to the formal Complaint, as well as the possible sanctions that may be imposed if the
11 Board finds and concludes that he violated one or more provisions of the
12 MPA; and

13 **WHEREAS**, Respondent understands and agrees that he has certain rights under the
14 United States Constitution and the Constitution of the state of Nevada, as well as under the MPA
15 and the Nevada Administrative Procedures Act (NRS Chapter 233B), including, but not limited to,
16 the right to a formal hearing on the charges against him, the right to representation by counsel in
17 the preparation and presentation of his defense, the right to confront and cross-examine the
18 witnesses against him, the right to written findings, conclusions and an order regarding a final
19 decision by the Board, and the right to judicial review of any final decision by the Board that is
20 adverse to him; and

21 **WHEREAS**, Respondent understands and agrees that this Settlement Agreement
22 (Agreement) is entered into by and between himself and the Board's IC, and not with the Board,
23 but that the IC will present this Agreement to the Board for consideration in open session at a
24 meeting duly noticed and scheduled. Respondent understands that the IC shall advocate approval
25 of this Agreement by the Board, but that the Board has the right to decide in its own discretion
26 whether or not to approve this Agreement; and

27 ///

28 ///

1 **WHEREAS**, Respondent understands and agrees that if the Board approves the terms,
2 covenants and conditions of this Agreement, then the terms, covenants and conditions enumerated
3 below shall be binding and enforceable upon him.

4 **NOW THEREFORE**, in order to resolve this matter and all charges alleged by the
5 Board's IC in the above-captioned matter, Respondent and the IC hereby agree to the following
6 terms, covenants and conditions:

7 **1. Jurisdiction**. Respondent is, and at all times mentioned in the formal Complaint
8 filed in the above-captioned matter was, a certified physician assistant licensed to practice
9 medicine in the state of Nevada subject to the jurisdiction of the Board to hear and adjudicate
10 charges of violations of the MPA, and to impose sanctions as provided by the MPA.

11 **2. Representation by Counsel/Knowing, Willing and Intelligent Agreement**.

12 Respondent is represented by counsel herein, whom Respondent covenants and agrees is
13 fully capable, competent and fully advised in these circumstances, and Respondent further
14 covenants and agrees that he enters into this Agreement knowingly, willingly, and intelligently
15 after full consultation with and upon advice of above-identified counsel.

16 **3. Waiver of Rights**. In connection with this Agreement, and the terms, covenants
17 and conditions contained herein, Respondent knowingly, willingly and intelligently, with the
18 advice of above-identified counsel, waives all rights in connection with this Agreement, and the
19 terms, covenants and conditions contained herein, and with the understanding that Respondent
20 knowingly, willingly and intelligently waives all rights arising under or pursuant to the
21 United States Constitution, the constitution of the state of Nevada, the MPA, NRS Chapter 233B,
22 and any other statutory rights that may be available to him or that may apply to him in connection
23 with the proceedings on the formal Complaint filed herein, the defense of said formal Complaint,
24 the adjudication of the charges in said formal Complaint, and the imposition of sanctions.

25 Respondent agrees that the matter of the formal Complaint herein may be settled and
26 resolved in accordance with this Agreement without a hearing or any further proceedings, and
27 without the right to judicial review.

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1 4. **Acknowledgement of Reasonable Basis to Proceed.** Respondent covenants and
2 agrees that the Board's IC has a reasonable basis to believe that Respondent engaged in one or
3 more instances of conduct that is grounds for discipline pursuant to the provisions of the MPA.

4 5. **Consent to Entry of Order.** In order to resolve the matter of these disciplinary
5 proceedings pending against him without incurring any further costs and expense of providing a
6 defense to the formal Complaint, Respondent hereby agrees that the Board may issue an Order
7 finding that Respondent engaged in conduct that is grounds for discipline pursuant to the MPA, to
8 wit: thirteen (13) counts of falsifying health care records, thirteen (13) violations of
9 NAC 630.230(1)(a), as set forth in Count I of the formal Complaint, and thirteen (13) counts of
10 administering, dispensing or possessing any controlled substance otherwise than in the course of
11 legitimate medical services or as authorized by law and the supervising physician, thirteen (13)
12 violations of NAC 630.380(1)(h), as set forth in Count II of the formal Complaint.

13 For the aforementioned violations, Respondent shall:

14 a. Allow his license to be suspended, with said suspension stayed and that
15 Respondent shall be placed on probation for a period of thirty-six (36) months from the date of the
16 Board's acceptance, adoption and approval of this Agreement, with an obligation to comply with
17 the following terms and conditions:

18 (1) Respondent shall be prohibited from dispensing controlled
19 substances for a period of twelve (12) months from the date of the Board's
20 acceptance, adoption and approval of this Agreement;

21 (2) Respondent shall remain in compliance with all state and federal
22 laws pertaining to the practice of medicine and the prescribing, administering or
23 dispensing of any dangerous drug or controlled substance;

24 (3) Respondent shall obtain, if necessary, and maintain all appropriate
25 registrations and licenses with the DEA and the Nevada State Board of Pharmacy
26 to prescribe, administer or dispense any dangerous drugs or controlled substances;

27 (4) Respondent shall be required to report this Agreement to all of his
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1 supervising physicians during the period of probation and provide proof of such to
2 the Board;

3 b. Receive a public reprimand;

4 c. Pay a fine in the amount of Five Thousand Two Hundred Dollars and
5 00/100 (\$5,200.00) to the Board within twelve (12) months of the Board's acceptance, adoption
6 and approval of this Agreement;

7 d. Pursuant to NRS 622.400, Respondent shall reimburse the sum of
8 \$3,231.99, the current amount of the costs incurred by the Board to investigate and prosecute this
9 matter, along with the costs to conclude the matter, if any. A final accounting of the total costs
10 shall be provided to Respondent in the entry of the Board's Order relating to this matter. The
11 costs shall be paid to the Board within twelve (12) months of the Board's acceptance, adoption
12 and approval of this Agreement;

13 e. Counts III, IV, and V of the formal Complaint shall be dismissed; and

14 f. The terms of this Agreement shall be reported as required by law.

15 6. **Release From Liability.** In execution of this Agreement, the Respondent, for
16 himself, his executors, successors and assigns, hereby releases and forever discharges the state of
17 Nevada, the Board, the Nevada Attorney General, and each of their members, agents and
18 employees in their representative capacities, and in their individual capacities, from any and all
19 manner of actions, causes of action, suits, debts, judgments, executions, claims and demands
20 whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have
21 or claim to have, against any or all of the persons or entities named in this paragraph arising out of
22 or by reason of this investigation, this Agreement or its administration.

23 7. **Procedure for Adoption of Agreement.** The IC and counsel for the IC shall
24 recommend approval and adoption of the terms, covenants and conditions contained herein by the
25 Board in resolution of the formal Complaint pending herein against Respondent. In the course of
26 seeking Board approval, adoption and/or acceptance of this Agreement, counsel for the IC may
27 communicate directly with the Board staff and the adjudicating members of the Board.

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1 Respondent acknowledges that such contacts and communication may be made or
2 conducted ex parte, without notice or opportunity to be heard on his part or on the part of his
3 counsel until the public Board meeting where this Agreement is discussed, and that such contacts
4 and communications may include, but not be limited to, matters concerning this Agreement, the
5 formal Complaint, and any and all information of every nature whatsoever related to the formal
6 Complaint or the proceedings herein against Respondent. The IC and its counsel agree that
7 Respondent and/or his counsel may appear at the Board meeting where this Agreement is
8 discussed, and if requested, respond to any questions that may be addressed to the IC or its
9 counsel.

10 **8. Effect of Acceptance of Agreement by Board.** In the event the Board approves,
11 accepts and adopts the terms, covenants and conditions set out in this Agreement, counsel for the
12 IC will cause the Board's order accepting, adopting and approving this Agreement to be entered
13 herein, ordering full compliance with the terms herein and ordering that this case be closed,
14 subject to the provisions in Paragraph 5.

15 **9. Effect of Rejection of Agreement by Board.** In the event the Board does not
16 accept, approve and adopt the terms, covenants and conditions set out in this Agreement, this
17 Agreement shall be null, void, and of no further force and effect except as to the following
18 covenant and agreement regarding disqualification of adjudicating Board panel members.
19 Respondent agrees that, notwithstanding rejection of this Agreement by the Board, nothing
20 contained herein and nothing that occurs pursuant to efforts of the IC or its counsel to seek
21 acceptance and adoption of this Agreement by the Board shall disqualify any member of the
22 adjudicating panel of the Board from considering the charges against Respondent and
23 participating in the disciplinary proceeding in any role, including adjudication of the case.
24 Respondent further agrees that he shall not seek to disqualify any such member absent evidence of
25 bad faith.

26 **10. Binding Effect.** If this Agreement is approved by the Board, Respondent
27 covenants and agrees that this Agreement is a binding and enforceable contract upon Respondent
28 and the Board's IC, which contract may be enforced in a court or tribunal having jurisdiction.

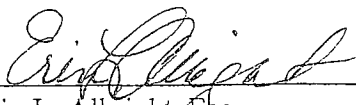
1 **11. Forum Selection Clause.** Respondent covenants and agrees that in the event
2 either party is required to seek enforcement of this Agreement in the district court, he consents to
3 such jurisdiction, and covenants and agrees that exclusive jurisdiction shall be in the
4 Second Judicial District Court of the state of Nevada in Washoe County and for the County of
5 Washoe.


6 **12. Attorneys' Fees and Costs.** Respondent covenants and agrees that in the event an
7 action is commenced in the district court to enforce any provision of this Agreement, the
8 prevailing party shall be entitled to recover costs and reasonable attorneys' fees.

9 **13. Failure to Comply With Terms.** In the event the Board enters its order
10 approving, accepting and adopting this Agreement, should Respondent fail to comply with any
11 term or condition recited herein, the Board shall be authorized to immediately suspend
12 Respondent's license to practice medicine in the state of Nevada pending an order to show cause
13 hearing, which will be duly noticed and scheduled. Further, failure to comply with the terms
14 recited herein may result in additional disciplinary action being initiated against Respondent for a
15 violation of an order of the Board in accordance with NRS 630.3065(2)(a). Moreover, the failure
16 of Respondent to reimburse the Board for monies agreed to be paid as a condition of settlement
17 may subject Respondent to civil collection efforts.

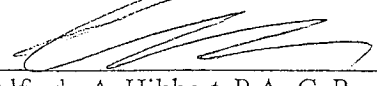
18 Dated this 17th day of February, 2013.

Dated this 13th day of February, 2013.

19
20 By: 
21 Erin L. Albright, Esq.
22 Attorney for the Investigative Committee

By: 
Maria Nutile, Esq.
Attorney for Respondent

23
24 UNDERSTOOD AND AGREED:


Alfredo A. Hibbert, P.A.-C, Respondent
25 Dated this 13 day of 2, 2013.

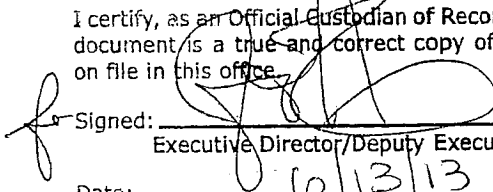
1 IT IS HEREBY ORDERED that the foregoing Settlement Agreement is approved and accepted by the
2 Nevada State Board of Medical Examiners on the 8th day of March 2013, with the final total amount of
3 costs due of \$3,231.99.

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5 Benjamin J. Rodriguez, M.D., President
6 NEVADA STATE BOARD OF MEDICAL EXAMINERS

17 STATE OF NEVADA
18 BOARD OF MEDICAL EXAMINERS

19 I certify, as an Official Custodian of Records, that this
20 document is a true and correct copy of the original
21 on file in this office.

22 Signed:  _____
23 Executive Director/Deputy Executive Director

24 Date: 6/13/13

For Public

BEFORE THE BOARD OF MEDICAL EXAMINERS
OF THE STATE OF NEVADA

* * * * *

In the Matter of Charges and)

Case No. 12-287-12

Complaint Against)

FILED

ALFREDO A. HIBBERT, P.A.-C,)

SEP 20 2012

Respondent.)

NEVADA STATE BOARD OF
MEDICAL EXAMINERS

By: 

COMPLAINT

The Investigative Committee (IC) of the Nevada State Board of Medical Examiners (Board), composed at the time of filing of Theodore B. Berndt, M.D., Chairman, Valerie J. Clark, BSN, RHU, LUTCF, Member, and Michael J. Fischer, M.D., Member, by and through Erin L. Albright, Esq., Deputy General Counsel and Attorney for the IC, having a reasonable basis to believe that Alfredo A. Hibbert, P.A.-C (Respondent), violated the provisions of Nevada Revised Statutes (NRS) Chapter 630 (Medical Practice Act), hereby issues its formal Complaint, stating the IC's charges and allegations as follows:

1. Respondent is currently licensed in active status (License No. 529), and has been so licensed by the Board since June 25, 1997, pursuant to the provisions of the Medical Practice Act.

2. At all times alleged herein, Respondent was employed by and practiced at Family Practice & Injury Recovery in Las Vegas, NV.

3. At all times alleged herein, Respondent held active controlled substance and prescription licenses with the Nevada State Board of Pharmacy.

4. To protect the privacy of the patients referenced herein, their true identities are not disclosed; however, their identities are disclosed in the Patient Designation served on Respondent contemporaneously with a copy of this Complaint.

1 5. On or about June 2010, Nicholas Karel ("Karel") solicited Respondent to
2 participate in a scheme in which Karel would provide Respondent with a list of names and copies
3 of identification, Respondent would write prescriptions for the names outlined on the list and
4 Karel would pay Respondent One Hundred Fifty and 00/100 Dollars (\$150.00) per prescription.

5 6. From June 2010 through June 2011, Respondent fraudulently created, either in
6 whole or in part, medical records and patient charts for at least thirteen (13) individuals identified
7 as Patients A – M on the Patient Designation for the purpose of prescribing controlled substances
8 using copies of identification provided to him by Karel.

9 7. From June 2010 through June 2011, Respondent provided Karel with
10 approximately 2,000 controlled substance prescriptions in exchange for One Hundred Fifty and
11 00/100 Dollars (\$150.00) per prescription. These prescriptions were not authorized by the
12 Respondent's supervising physician, Theodore Thorp, M.D.

13 **COUNT I**

14 **(Thirteen Counts)**

15 8. All of the allegations contained in the above paragraphs are hereby incorporated by
16 reference as though fully set forth herein.

17 9. Nevada Administrative Code (NAC) 630.380(1)(1) provides that violation of NAC
18 630.230 is grounds for initiating disciplinary action against a physician assistant licensee.

19 10. NAC 630.230(1)(a) prohibits the falsification of health care records.

20 11. Respondent created false medical records and/or charts for Patients A – M from
21 June 2010 through June 2011.

22 12. By reason of the foregoing, Respondent is subject to discipline by the Board as
23 provided in NRS 630.352.

24 **COUNT II**

25 **(Thirteen Counts)**

26 13. All of the allegations in the above paragraphs are hereby incorporated as if fully set
27 forth herein.

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14. NAC 630.380(1)(h) provides that administering, dispensing or possessing any controlled substance otherwise than in the course of legitimate medical services or as authorized by law and the supervising physician is grounds for initiating disciplinary action against a physician assistant licensee.

15. Respondent did not dispense the controlled substances in the course of legitimate medical services or as authorized by law and his supervising physician. Respondent dispensed the controlled substances to Patients A – M in exchange for One Hundred Fifty Dollars and 00/100 (\$150.00) per prescription.

16. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT III

(Thirteen Counts)

17. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

18. NAC 630.380(1)(m) provides that a violation of NRS 630.301 to 630.3065, inclusive, is grounds for initiating disciplinary action against a physician assistant licensee.

19. NRS 630.306(2)(a) prohibits engaging in any conduct that is intended to deceive.

20. NRS 630.306(2)(c) prohibits engaging in any conduct that violates a regulation adopted by the State Board of Pharmacy.

21. By fraudulently creating medical records for Patients A – M, Respondent engaged in conduct that was intended to deceive.

22. By dispensing controlled substances for monetary gain and not in the course of legitimate medical services or as authorized by law and his supervising physician, Respondent violated the regulations of the State Board of Pharmacy and/or NAC 630.010 et seq.

23. By falsifying the medical records of Patients A – M, Respondent violated the regulations of the State Board of Pharmacy and/or NAC 630.010 et seq.

24. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT IV

(Thirteen Counts)

25. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

26. NAC 630.380(1)(g) provides that disobedience of any provision of the regulations of the State Board of Pharmacy or NAC 630.010 et seq. is grounds for initiating disciplinary action against a physician assistant licensee.

27. By dispensing controlled substances for monetary gain and not in the course of legitimate medical services or as authorized by law and his supervising physician, Respondent violated regulations of the State Board of Pharmacy and/or NAC 630.010 et seq.

28. By falsifying the medical records of Patients A – M, Respondent violated regulations of the State Board of Pharmacy and/or NAC 630.010 et seq.

29. By reason of the foregoing, Respondent is subject to discipline by the Board as provided in NRS 630.352.

COUNT V

(Thirteen Counts)

30. All of the allegations in the above paragraphs are hereby incorporated as if fully set forth herein.

31. NRS 630.306(2)(c) provides that engaging in any conduct which is in violation of a regulation adopted by the State Board of Pharmacy is grounds for initiating disciplinary action against a licensee.

32. NAC 639.945(1 (o) & (3) provides that prescribing a drug to a patient with whom the prescribing practitioner does not have a bona fide therapeutic relationship is a violation and unprofessional conduct and conduct contrary to the public interest.

33. Respondent prescribed drug(s) to Patient A – M, as alleged above, without having a bona fide therapeutic relationship with Patients A – M.

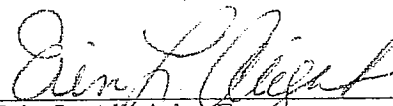
34. By reason of the foregoing, Respondent is subject to discipline by the Nevada State Board of Medical Examiners as provided in Section 630.352 of the Nevada Revised Statutes.

1 **WHEREFORE**, the Investigative Committee prays:

- 2 1. That the Board give Respondent notice of the charges herein against him and give
3 him notice that he may file an answer to the Complaint herein as set forth in NRS 630.339(2)
4 within twenty (20) days of service of the Complaint;
- 5 2. That the Board set a time and place for a formal hearing after holding an
6 Early Case Conference pursuant to NRS 630.339(3);
- 7 3. That the Board determines the sanctions it will impose if it finds Respondent
8 violated the Medical Practice Act;
- 9 4. That the Board make, issue and serve on Respondent, in writing, its findings of
10 fact, conclusions of law and order, which shall include the sanctions imposed; and
- 11 5. That the Board take such other and further action as may be just and proper in these
12 premises.

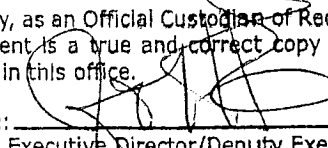
13 DATED this 20th day of September, 2012.

14
15 INVESTIGATIVE COMMITTEE OF THE
16 NEVADA STATE BOARD OF MEDICAL EXAMINERS

17 By: 
18 Erin L. Albright, Esq.
19 Deputy General Counsel
20 Attorney for the Investigative Committee

21
22 STATE OF NEVADA
23 BOARD OF MEDICAL EXAMINERS

24 I certify, as an Official Custodian of Records, that this
25 document is a true and correct copy of the original
26 on file in this office.

27 Signed: 
28 Executive Director/Deputy Executive Director

 Date: 6/13/13

VERIFICATION

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STATE OF NEVADA)
 : ss.
COUNTY OF WASHOE)

Theodore B. Berndt, M.D., hereby deposes and states under penalty of perjury under the laws of the state of Nevada that he is the Chairman of the Investigative Committee of the Nevada State Board of Medical Examiners that authorized the foregoing Complaint against the Respondent herein; that he has read the foregoing Complaint; and that based upon information discovered during the course of the investigation into a complaint against Respondent, that he believes the allegations and charges in the foregoing Complaint against Respondent are true, accurate and correct.

Dated this 20th day of September, 2012.



THEODORE B. BERNDT, M.D.